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Application No.: 10/010,391

Inventor(s): Nabil Enrique Salman et al.

Filed: December 7, 2001

Docket No.: 8384R

Confirmation No.: 6122

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/010,391  
Inventor(s) : Nabil Enrique Salman et al.  
Filed : December 7, 2001  
Art Unit : 3721  
Examiner : Thanh K. Truong  
Docket No. : 8384R  
Confirmation No. : 6122  
Customer No. : 27752  
Title : Portable Packaging Device And Method For Forming  
Individually Packaged Articles

APPEAL BRIEF ("CORRECTED VERSION")

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir,

This Brief is filed pursuant to the appeal from the U.S. Patent and Trademark Office decision of Paper no. 08222004. A timely Notice of Appeal was filed on December 8, 2004.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

The case currently being appealed, i.e. U.S. Application Serial No. 10/010,391 is a continuation in part of U.S. Application Serial No. 09/745,702. An appeal brief was filed for U.S. Application Serial No. 09/745,702 on March 31, 2005.

STATUS OF CLAIMS

Claims 1, 2, 5-8, 11, 13-16, and 18, are rejected and are appealed. Claims 3, 4, 9, 10, 12, 17, 19, and 20, are cancelled. A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

### STATUS OF AMENDMENTS

An amendment was filed in a response dated December 8, 2004, to a Final Office Action dated September 8, 2004 (hereafter "Paper no. 08222004"). The amendment was made to claim 11 in order to overcome a rejection under § 112 second paragraph as expressed in Paper no. 08222004.

The Office asserted that the claim term "may be formed" in claim 11 was vague and indefinite. Appellant amended claim 11 by replacing the claim term with "are formed". Per an Advisory Action dated December 28, 2004, the amendment to claim 11 was entered and the rejection under § 112 second paragraph was withdrawn.

### SUMMARY OF CLAIMED SUBJECT MATTER

The invention relates to a portable packaging device for manually packaging articles within a tubular sheet. (page 3, lines 2-3). With regard to claim 1, the packaging device (item 10, Figures 1-4) comprises an inlet end (item 12, Figures 1-3) and an outlet end (item 13, Figure 1). (page 4, lines 23-27). The packaging device further comprises a body (item 20, Figures 1-2) formed by an inner core (item 22, Figures 1-3 and 5) which has an inlet opening (item 23, Figures 1-3), an outlet opening (item 24, Figures 1-3), and a passageway (item 25, Figures 1-3) between the inlet opening and the outlet opening. (page 4, lines 24-27).

The packaging device further comprises a casing (item 14, figures 1-3) which has a casing wall (item 16, Figures 1-3 and 5) around the body. (page 4, lines 27-28). The casing is joined to the body such that a storage space (item 30, Figures 2-3) is formed between the casing and the body. (pages 4-5, lines 29-30; lines 1-3). The packaging device further comprises a tubular sheet (item 51, Figures 2-3) within the storage space. (page 5, lines 8-9). The tubular sheet is dispensable through a dispensing opening (item 32, Figures 1-3) between the body and the casing into the inlet opening of the inner core. (page 5, lines 10-12). The tubular sheet comprises an adhesive on at least a portion of the tubular sheet. (page 10, lines 23-25).

The casing or the storage space of the packaging device comprises a slot (item 78, Figures 1 and 4; item 781, Figure 6) that is adapted for compressively gathering the tubular sheet as the sheet is inserted and moved through the slot. (page 8, lines 18-19;

lines 28-30; page 9 lines 1-7). The compressive gathering of the tubular sheet causes the adhesive to bond the tubular sheet to itself along its gathered portions such that a first packaged article is closed and sealed and a new gathered leading edge (item 52, Figures 2-4) of a second packaged article is formed. (page 9, lines 3-7).

Claim 11 is the same as claim 1 except to the extent provided below. The tubular sheet within the storage space has two surfaces with an adhesive being disposed on at least one of the surfaces. (page 5, lines 8-9; page 10, lines 23-25). In addition, the slot is further adapted for separating the packaged article from a trailing portion of the tubular sheet as the tubular sheet is inserted and moved through said slot. (page 8, lines 28-29). The separating of the packaged article is performed after each compressive gathering of the tubular sheet such that a series of packaged articles are formed and disposed of in a successive and independent manner. (page 9, lines 8-10; page 19, lines 11-23).

Claim 15 is the same as claim 1 except to the extent provided below. The tubular sheet within the storage space has two surfaces with an adhesive being disposed on at least one of the surfaces. (page 5, lines 8-9; page 10, lines 23-25). The packaging device of claim 15 has a compact dimension of height along a vertical axis (item 101, Figures 1-2) less than 20 centimeters and a width along a horizontal axis (item 111, Figures 1-2) of less than 17 centimeters. (added to page 5, lines 18-21; claim 15 as filed).

#### GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- I. Claims 1, 2, 5-8, 11, 13-16, and 18, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,869,049 issued to Richards et al., hereafter "Richards", in view of U.S. Patent No. 5,662,758 issued to Hamilton et al., hereafter "Hamilton", and U.S. Patent No. 3,111,796 issued to W.E. Meissner, hereafter "Meissner".

#### ARGUMENTS

- I. Claims 1, 2, 5-8, 11 and 13-14 have been improperly rejected under § 103(a) over Richards in view of Hamilton and Meissner.
- A. The Office has failed to establish a *prima facie* case of obviousness against the claimed invention.

It is well established that in order to establish a *prima facie* case of obviousness, three requirements must be met. MPEP § 706.02(j) at 46 (8<sup>th</sup> ed., rev. 2, May 2004). First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438 (Fed. Cir. 1991). Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. See *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580 (CCPA 1974). The Federal Circuit has stated that "the examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443 (Fed. Cir. 1992).

The Office, in Paper no. 08222004, supports its rejection by stating:

Richards discloses an apparatus comprising: a body formed by an inner core having an inlet opening and an outlet opening and a passageway there between (figures 1, 4 & 5); a casing 1 comprising a surrounding casing wall, a storage space to retain a length of the flexible tubular sheet 2 within the storage space in a layered stack; the tubular sheet is gathered and closed at each end to form a closed packaged article 35 (figure 1); a means 61 comprises a slot for separating the closed packaged article; and the cutting blade 64 (figure 6)....

W. E. Meissner discloses, in an invention for closing and sealing a container, that: "for closing and sealing a collapsible container by rupturing a bubble of tacky film-forming material at least within the opening end of the container as that portion of the container is urged into collapsed position" (column 1, lines 31-35). Figure 5 further depicting the closing and sealing of a flexible bag by twisting the bag at the area 53. During this twisting operation, the bubble ruptured and coated the inner wall of the bag with adhesive (column 5, lines 48-55).

Hamilton discloses a flexible film having pressure sensitive adhesive protected from inadvertent adherence (abstract); the flexible film having a recessed pressure sensitive adhesive and collapsible protrusions (three-dimensional film) which serve as stand-offs to prevent premature sticking to wide variety of rigid and resilient target surfaces, wherein the collapsible protrusions are small and closely spaced for releasable sealing of the composite material to such surfaces or even to itself (column 3, lines 20-26).

W E. Meissner's teaching provides a motivation for the practitioner in the art to find a flexible material to use as a bag in which the inner surface is coated with adhesive, and when pressure is applied such as twisting, the adhesive material ensures the sealing of the closure of the bag.

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Richards' tubular sheet by applying the flexible film with adhesive as taught by Hamilton providing an effective closing and sealing of the waste article in which the flexible material having pressure sensitive adhesive that is protected from inadvertent adherence to other surfaces.

(Paper no. 08222004 pages 3-4).

1. There is no motivation to combine the cited references because the cited references teach away from the suggested combination.

- a. Combination of Richards and Meissner

A reference teaches away when a person of ordinary skill in the art, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. See *United States v. Adams*, 383 U.S. 39, 52 (1966). If a reference is found to teach away from a suggested combination, then there is no motivation to make the suggested combination. See *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1599 (Fed. Cir. 1988).

The Office asserts that Meissner provides a motivation to add an adhesive to a flexible material to insure the sealing and the closure of the flexible material. However, Richards recommends measures to ensure the sealing and closing of the flexible material without the use of adhesives. Richards teaches that a top of a pleated tubing is pulled upward and tied into a knot thereby forming a bottom of a package. (col. 3, lines 11-14). Richards further teaches that after the articles are placed within the tubing, the tubing is twisted such that a seal is formed. (col. 3, lines 55-60). Richards also teaches the use of high density polyethylene in order to tightly maintain knots that are created. (col. 3, lines 55-60). Moreover, Richards teaches that "[e]ven if the twisted seals between the packages become loosened, the lid and the newly formed topmost twisted seal will

prevent the escape of odours, vapours, and gases to the ambient atmosphere." (col. 3, lines 54-57).

One skilled in the art, after reading Richards, would be discouraged from utilizing adhesive in sealing or closing the pleated tubing of Richards. Consequently, there is no motivation to combine the suggested references.

b. Combination of Richards and Hamilton

In an Office Action dated November 26, 2003, (hereafter "Paper no. 11") the Office asserted that "it would have been obvious to one of ordinary skill in the art... to modify Richards' tubular sheet by applying the flexible film with adhesive as taught by Hamilton." (Paper no. 11 page 6). However, similar to the above suggested combination, there is also no motivation to combine these suggested references.

As discussed above, Richards teaches several methods for sealing the pleated tubing. For example, Richards teaches that even if the intermediate twisted seals become loose, the topmost twisted seal prevents odours from escaping. (col. 3, lines 54-60). Furthermore, Richards recommends the use of high density polyethylene because joints that are created using this material remain tight. *Id.*

In contrast, Hamilton teaches a composite material which is capable of contacting a target surface without sticking. (Abstract). Hamilton teaches that when collapsible protrusions of the composite material are pressed they collapse such that a pressure sensitive adhesive is exposed to a target surface. (cols. 4-5, lines 65-67; 1-2). Because one skilled in the art would be inclined to use the sealing methods taught in Richards rather than using the three dimensional film of Hamilton, Richards teaches away from the use of the film of Hamilton. Because Richards teaches away from using the film of Hamilton, there is no motivation to combine the cited references.

2. There is no motivation to combine the cited references because the suggested combination of references would render the primary reference unsatisfactory for its intended purpose.

The Federal Circuit has held that it is an error to consider prior art references in less than their entirety such that portions of the prior art references that "diverge from and teach away from the invention at hand" are disregarded. *W.L. Gore & Assoc., Inc. v.*

*Garlock, Inc.*, 721 F.2d 1540, 1550, 220 USPQ 303 (Fed. Cir. 1983). Furthermore, the Federal Circuit has held that where a proposed modification would render a prior art invention "inoperable for its intended purpose," the prior art reference, in effect, teaches away from the proposed modification. *In re Gordon*, 733 F.2d 900, 901, 221 USPQ 1125 (Fed. Cir. 1984)).

While the Office asserts that Meissner provides a motivation to add adhesive to a flexible material to ensure closing and sealing of the flexible material, the Office does not take into account the teachings of Meissner with regard to how the adhesive is applied to the flexible material. Meissner teaches the addition of adhesive to insure the sealing and closure of a container via complex machines and processes. Meissner teaches that in order to insure sealing and closure of a container, an adhesive "is suspended within the open end of a container, expanded into the form of a bubble, and then ruptured concomitantly as the open end of the container is collapsed." (col. 2, lines 3-6). Meissner further teaches that "[c]ontrol over the areas of the container walls coated with the adhesive film-forming material may be achieved by selectively positioning the expanded bubble or bubbles of film-forming material relative to the open end of the container." (col. 2, lines 30-34). A mechanical device is required to suspend the adhesive within the open end of the container, and another mechanical device may be necessary to expand the adhesive into the form of a bubble.

However, an expressed objective of Richards is to avoid complicated mechanical devices. (col. 1, lines 47-49). Therefore, the addition of adhesive to insure the sealing and the closure of the flexible material of Richards via the process disclosed in Meissner would greatly complicate the sealing and closure of the flexible material as disclosed in Richards. Thus, the addition of adhesive to seal or close the flexible material of Richards via Meissner would contravene the intended purpose of Richards. Consequently, Richards, in effect, teaches away from the suggested combination with Meissner. Therefore, there is no motivation to combine Richards with Meissner.

3. The combination of cited references fail to teach or suggest all of the claim limitations of the claimed invention.

Even assuming *arguendo* that there is motivation to combine the suggested references, the suggested combination still fails to teach or suggest all of the claim



limitations of the claimed invention. In an action dated March 30, 2004, (hereafter "Paper no. 03222004"), in response to arguments of the Appellant, the Office asserts:

In response to the Applicant's argument that, in Richards' reference, the tubing is gathered via the twisting motion of the device as opposed to a slot, the examiner disagrees. Richards clearly discloses a slot of the cutting unit 61 for gathering and separating a packaged article from a trailing portion of the tubular sheet as the sheet is inserted and moved through the slot (column 4, lines 14-22).

(Paper no. 03222004, page 4).

Subsequently, in Paper no. 08222004, the Office states that:

In response to Applicant's argument that Richards includes additional structure such as: tying a knot 24, the package is closed by twisting the flexible tubing, and a series of connected closed packages 35 that are not taught or required by Applicant's invention, it must be noted that Richards discloses the invention as claimed. The fact that it discloses additional structure not claimed is irrelevant.

Furthermore, the twisting of the package and then inserting it in a slot can be construed as "compressive gathering".

(Paper no. 08222004, page 6).

Claims 1 and 11 recite, *inter alia*, that the casing or storage space comprises a slot "adapted for compressively gathering said tubular sheet as the sheet is inserted and moved through" the slot "whereby the compressive gathering of said tubular sheet causes... a new gathered leading edge." However, Richards teaches that the cutter unit 61 is operated by moving the "finger pieces 60 through a full revolution" such that "the tapered shoe 63 pierces through the radially pleated taut portion 65 of the flexible tubing that flares outwards from the topmost twist 30 to the core 1." (col. 4, lines 14-19). Thus, the cutter unit 61, as taught in Richards, cuts above the topmost twist. Moreover, as previously stated, Richards teaches that the top of the pleated tubing is pulled upward and tied into a knot thereby forming a bottom of a package. (col. 3, lines 11-14). Thus, Richards does not teach or suggest all of the claim limitations of claims 1 and 11. Specifically, Richards does not teach a slot that is adapted for compressively gathering said tubular sheet which causes a "new gathered leading edge," as recited, in part, in claims 1 and 11.

Furthermore, neither Meissner nor Hamilton are cited because of their teachings of forming a "new gathered leading edge of a second packaged article," as is recited, in part, in claims 1 and 11. Consequently, the alleged combination of Richards, Meissner, and Hamilton, fails to teach or suggest all of the claim limitations of the claimed invention. Therefore, the Office has failed to establish a *prima facie* case of obviousness against claims 1 and 11.

B. The Office has failed to establish a by a preponderance of the evidence that a *prima facie* case of obviousness is more probable than not.

The Federal Circuit has stated that "[a]fter evidence or argument is submitted by the applicant in response, patentability is determined on the totality of the record, by a preponderance of evidence with due consideration to persuasiveness of argument." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443 (Fed. Cir. 1992). Regarding the statement by the Federal Circuit in *Oetiker*, the MPEP provides that "[w]ith regard to rejections under 35 U.S.C. 103, the examiner must provide evidence which as a whole shows that the legal determination sought to be proved (i.e. the reference teachings establish a *prima facie* case of obviousness) is more probable than not." MPEP §2142 at 129.

As shown above, there is no motivation to combine the suggested references because Richards teaches away from the suggested combination. Furthermore, the suggested combination of references would render Richards unsatisfactory for its intended purpose. Also, the suggested combination of references fails to teach or suggest all of the claim limitations of claims 1, 2, and 5-8, which depend from claim 1. Therefore, the Office has failed to establish a *prima facie* case of obviousness. Consequently, the Office has not shown by a preponderance of evidence that a *prima facie* case of obviousness is more probable than not.

For the foregoing reasons, the Office has failed to establish a *prima facie* case of obviousness against claims 1 and 11. Consequently, the Office has also failed to establish a *prima facie* case of obviousness against claims 2 and 5-8, which depend from claim 1, and claims 13-14 which depend from claim 11.

II. Claims 15, 16, and 18, have been improperly rejected under § 103(a) over Richards in view of Hamilton and Meissner.

A. The Office has failed to establish a *prima facie* case of obviousness against the claimed invention.

1. There is no motivation to combine the cited references because the cited references teach away from the suggested combination.

The arguments asserted in section I.A.1., with regard to claim 1, 2, and 5-8, are equally applicable to the rejection of claims 15, 16, and 18. Namely, there is no motivation to make the suggested combination because Richards teaches away from a combination with Meissner and also teaches away from a combination with Hamilton. Therefore, there is no motivation to combine the suggested references. Consequently, a *prima facie* case of obviousness has not been established against claims 15, 16, and 18.

2. There is no motivation to combine the cited references because the suggested combination of references would render the primary reference unsatisfactory for its intended purpose.

The arguments asserted in section I.A.2., with regard to claim 1, 2, and 5-8, are equally applicable to the rejection of claims 15, 16, and 18. Namely, the proposed combination of Richards and Meissner would render Richard unsatisfactory for its intended purpose. Consequently, a *prima facie* case of obviousness has not been established against claims 15, 16, and 18.

3. The combination of cited references fail to teach or suggest all of the claim limitations of the claimed invention.

a. Suggested combination does not teach a slot adapted for compressively gathering said tubular sheet which causes a "new gathered leading edge".

The arguments asserted in section I.A.3., with regard to claim 1, 2, and 5-8, are equally applicable to the rejection of claims 15, 16, and 18. Namely, the proposed combination of Richards, Meissner, and Hamilton do not teach or suggest all of the claim limitations of claim 15. Specifically, the suggested combination fails to teach or suggest

that a slot that is adapted for compressively gathering said tubular sheet which causes a "new gathered leading edge," as recited, in part, in claim 15.

- b. Suggested combination does not teach a packaging device having a height of less than 20 cm and a width less than 17 cm.

Claim 15, recites, in part, that the article packaging device "has a compact dimension of a height along a vertical axis less than 20 cm and a width along a horizontal axis of less than 17 cm." The Office, in Paper no. 08222004, supports its rejection by stating that:

Regarding to claim 15, Richards discloses the claimed invention, but does not expressly disclose the device has a compact dimension of a height along a vertical axis less than 20 centimeters and a width along a horizontal axis of less than 17 centimeters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the device having a compact dimension (as cited in claim 15) providing consumers a portable, light weight device, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller 105 USPQ 233.

(Paper no. 08222004, page 5).

However, the MPEP cites *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 U.S.P.Q. 777 (Fed. Cir. 1984), and states that "where the only difference between the prior art and the claims" is a "recitation of relative dimensions of the claimed device, and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device" is "not patentably distinct from the prior art device." MPEP § 2144.04 at 140. As provided above, there are many differences between the prior art and the claimed invention of claims 1, 11, and 15, besides the dimensions of the packaging device.

However, even assuming *arguendo* that the only difference between the claimed invention of claim 15 and the prior art are the dimensions of claim 15, the claimed invention is still patentable over the prior art. As will be demonstrated below, the claimed invention does NOT operate in the same manner as Richards. For example, Richards teaches that "a series of connected closed packages 35" can be formed "until the pleated

tubing 2 is exhausted.” (col. 3, lines 43-45; see Figure 1). Richards also teaches that the packaging device can be used to produce “a single large package substantially filling the bin portion 36 of the container 21.” (col. 4, lines 44-46; see Figure 4). Also Richards teaches that intermediate of the storage capabilities of those shown in Figures 1 and 4, packages of different sizes can be produced. (col. 4, lines 53-56; see Figure 5).

Appellant’s claimed packaging device recites a height of 20 cm and a width of less than 17 cm. It would be inconvenient at best in order for the claimed invention to perform in the manner Richards describes above. For instance, with a width of less than 17 cm, the one would be hard pressed to make a single large package as described by Richards. Moreover, one would be hard pressed to make a series of packages which are connected as described by Richards. Because the claimed invention of claim 15 operates differently than does the device taught in Richards, the claimed invention of claim 15 is patentably distinct over Richards.

B. The Office has failed to establish a by a preponderance of the evidence that a *prima facie* case of obviousness is more probable than not.

The arguments asserted in section I.B., with regard to claim 1, 2, and 5-8, are equally applicable to the rejection of claims 15, 16, and 18. Namely, there is no motivation to combine the suggested references because Richards teaches away from the suggested combination. Furthermore, the suggested combination of references would render Richards unsatisfactory for its intended purpose. Also, the suggested combination of references fails to teach or suggest all of the claim limitations of claims 15, 16, and 18, which depend from claim 15. Therefore, the Office has failed to establish a *prima facie* case of obviousness. Consequently, the Office has not shown by a preponderance of evidence that a *prima facie* case of obviousness is more probable than not.

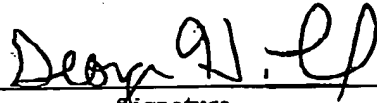
SUMMARY

The Federal Circuit has stated that “[i]f examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of the patent.” *In re Oetiker*, 977 F.2d at 1446. In view of all of the above, it is respectfully submitted that claims 1, 2, 5-8, 11, 13-16, and 18, have not been properly

rejected under 35 U.S.C. § 103(a) because the Office has failed to establish a *prima facie* case of obviousness. Therefore, in light of all of the analysis and discussion provided above, Appellant respectfully request the Board of Patent Appeals and Interferences to reverse the rejections of claims 1, 2, 5-8, 11, 13-16, and 18, and to remand the application with instructions that these claims be allowed over the cited documents.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY



Signature

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Date: January 20, 2006

Customer No. 2775Z

## CLAIMS APPENDIX

1. (Rejected) An article packaging device comprising:
  - an inlet end,
  - an outlet end,
  - a body formed by an inner core having an inlet opening and an outlet opening, and a passageway therebetween,
  - a casing comprising a casing wall around the body, the casing joined to the body with a storage space between them, and
  - a tubular sheet within the storage space, the tubular sheet dispensable through a dispensing opening between the body and the casing and into the inlet opening of the inner core and wherein said tubular sheet comprises an adhesive on at least a portion of said tubular sheet,
    - wherein the casing or the storage space comprises a slot,
    - wherein said slot is adapted for compressively gathering said tubular sheet as the sheet is inserted and moved through said slot, whereby the compressive gathering of said tubular sheet causes said adhesive to bond said tubular sheet to itself along its gathered portions in order to close and seal a first packaged article and form a new gathered leading edge of a second packaged article.
2. (Rejected) The article packaging device according to Claim 1, wherein the slot comprises a cutting means for cutting through the trailing portion of the tubular sheet to form a packaged article.
3. (Cancelled)
4. (Cancelled)
5. (Rejected) The article packaging device according to Claim 1, wherein the tubular sheet includes a leading portion, a trailing portion and an inner surface, the inner surface comprising an adhesive material, whereby the leading portion and the trailing portion are closable about at least one article located therebetween with the adhesive material, thereby forming a packaged article.
6. (Rejected) The article packaging device according to Claim 1, wherein the tubular sheet comprises a three-dimensional film having an inner surface that comprises a plurality of

recessed pressure sensitive adhesive sites and a plurality of collapsible protrusions that serve as stand-offs to prevent premature sticking of the adhesive sites to a target surface until a force sufficient to collapse the protrusions has been applied to the opposed surface of the film.

7. (Rejected) The article package device according to Claim 6, wherein the article to be packaged is a waste-filled disposable absorbent article.

8. (Rejected) The article packaging device according to Claim 1, wherein the inlet opening is circular or oval.

9. (Cancelled)

10. (Cancelled)

11. (Rejected) An article packaging device comprising:

an inlet end,

an outlet end,

a body formed by an inner core having an inlet opening and an outlet opening, and a passageway therebetween,

a casing comprising a casing wall around the body, the casing joined to the body with a storage space between them, and

a tubular sheet with two surfaces within the storage space, comprising an adhesive disposed on at least one of said surfaces, the tubular sheet dispensable through a dispensing opening between the body and the casing and into the inlet opening of the inner core,

wherein the casing or the storage space comprises a slot,

wherein said slot is adapted for compressively gathering said tubular sheet as the tubular sheet is inserted and moved through the slot, whereby the compressive gathering of said tubular sheet causes said adhesive to bond said tubular sheet to itself along its gathered portions in order to close and seal a packaged article and form a new gathered leading edge,

wherein said slot is further adapted for separating the packaged article from a trailing portion of said tubular sheet as the tubular sheet is inserted and moved



through said slot, whereby the separating of the packaged article is performed after each compressive gathering of said tubular sheet such that a series of packaged articles are formed and disposed of in a successive and independent manner.

12. (Cancelled)
13. (Rejected) The article packaging device of claim 11, wherein the tubular sheet is in a layered stack.
14. (Rejected) The article packaging device according to Claim 11, wherein the tubular sheet comprises a three-dimensional film having an inner surface that comprises a plurality of recessed pressure sensitive adhesive sites and a plurality of collapsible protrusions that serve as stand-offs to prevent premature sticking of the adhesive sites to a target surface until a force sufficient to collapse the protrusions has been applied to the opposed surface of the film.
15. (Rejected) An article packaging device comprising:
  - an inlet end,
  - an outlet end,
  - a body formed by an inner core having an inlet opening and an outlet opening, and a passageway therebetween,
  - a casing comprising a casing wall around the body, the casing joined to the body with a storage space between them, and
  - a tubular sheet with two surfaces within the storage space, comprising an adhesive disposed on at least one of said surfaces, the tubular sheet dispensable through a dispensing opening between the body and the casing and into the inlet opening of the inner core,
  - wherein the casing or the storage space comprises a slot,
  - wherein said slot is adapted for compressively gathering said tubular sheet as the tubular sheet is inserted and moved through the slot, whereby the compressive gathering of said tubular sheet causes said adhesive to bond said tubular sheet to itself along its gathered portions in order to close and seal a packaged article and form a new gathered leading edge, and wherein the device has a compact

dimension of a height along a vertical axis less than 20 centimeters and a width along a horizontal axis of less than 17 centimeters.

16. (Rejected) The article packaging device of claim 15, wherein the tubular sheet is in a layered stack

17. (Cancelled)

18. (Rejected) The article packaging device according to Claim 15, wherein the tubular sheet comprises a three-dimensional film having an inner surface that comprises a plurality of recessed pressure sensitive adhesive sites and a plurality of collapsible protrusions that serve as stand-offs to prevent premature sticking of the adhesive sites to a target surface until a force sufficient to collapse the protrusions has been applied to the opposed surface of the film.

19. (Cancelled)

20. (Cancelled)

**EVIDENCE APPENDIX**

**No evidence is included herein.**

**RELATED PROCEEDINGS APPENDIX**

**Applicants have not received a decision from the Board on the appeal pending for  
Serial No. 10/010,391.**

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